



DEFENSE LOGISTICS AGENCY
THE DEFENSE CONTRACT MANAGEMENT COMMAND
8725 JOHN J. KINGMAN ROAD, SUITE 2533
FT. BELVOIR, VIRGINIA 22060-6221

IN REPLY
REFER TO

DCMC-OHC

JAN 14 1997

**MEMORANDUM FOR COMMANDERS, DEFENSE CONTRACT MANAGEMENT
DISTRICTS**

SUBJECT: DCMC Memorandum No. 97-09, Restructuring Costs (POLICY)

This is a POLICY memorandum. It expires when content is included in DLAD 5000.4, Contract Management (One Book), not to exceed one year. Target Audience: All DCMC employees.

On December 6, 1996, the Director, Defense Procurement, issued a memorandum amending Part 231 of the Defense Federal Acquisition Regulation Supplement (attached). For business combinations occurring after September 30, 1996, Section 8115 of the National Defense Appropriations Act for FY 97 (Public Law 104-208) restricts the Department of Defense (DoD) from using FY 97 appropriated funds to reimburse contractors for restructuring costs associated with external restructuring activities unless: (a) the audited savings for DoD resulting from the restructuring will exceed the costs allowed on a two-to-one basis; or (b) the savings will exceed the costs allowed and the Secretary of Defense determines that the business combination will result in the preservation of a critical capability that might otherwise be lost to DoD.

Please ensure this information is disseminated to your Administrative Contracting Officers. Any questions concerning this matter should be addressed to Mr. William Hill, DCMC Overhead Center, at DSN 427-3388 or (703) 767-3388.

ROBERT W. DREWES
Major General, USAF
Commander

Attachment

cc:
Defense Corporate Executives



ACQUISITION AND
TECHNOLOGY

DP (DAR)

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

December 6, 1996

In reply refer to
DFARS Case: 96-D334
D. L. 96-022

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN(RD&A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTOR, PROCUREMENT POLICY, ASA(RD&A)/SARD-PP
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

SUBJECT: Restructuring Costs

We have amended Part 231 of the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8115 of the National Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104-208). Section 8115 restricts the use of fiscal year 1997 appropriated funds to reimburse external restructuring costs associated with a business combination undertaken by a defense contractor unless certain conditions are met.

This interim DFARS rule is effective immediately and will be published in a future Defense Acquisition Circular.

Eleanor R. Spector
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir



ATTACHMENT

**RESTRUCTURING COSTS
DFARS CASE 96-D334**

SUBPART 231.2--CONTRACTS WITH COMMERCIAL ORGANIZATIONS

231.205 Selected costs.

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231.205-70 External restructuring costs.

(a) Scope.

This subsection prescribes policies and procedures for allowing contractor external restructuring costs when net savings would result for DoD. This subsection also implements Section 818 of the National Defense Authorization Act for Fiscal Year 1995 (Pub. L. 103-337) [and Section 8115 of the National Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104-208)].

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(c) Limitations on cost allowability.

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[(3) Additionally, for business combinations that occur after September 30, 1996, no fiscal year 1997 appropriated funds may be obligated or expended to reimburse a contractor for restructuring costs associated with external restructuring activities unless--

- (i) The audited savings for DoD resulting from the restructuring will exceed the costs allowed by a factor of at least two to one; or
- (ii) The savings for DoD resulting from the restructuring will exceed the costs allowed, and the Secretary of Defense determines that the business combination will result in the preservation of a critical capability that might otherwise be lost to DoD.]

(d) Procedures and ACO responsibilities.

As soon as it is known that the contractor will incur restructuring costs for external restructuring activities, the cognizant ACO shall:

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[(10) Consult with the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition & Technology), when 231.205-70(c)(3)(ii) applies.]